

**A RESOLUTION
BY CITY UTILITIES COMMITTEE**

A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA IN THE AMOUNT OF ONE HUNDRED SIXTY EIGHT THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$168,500.00) PURSUANT TO THE FIRST AMENDED CONSENT DECREE, CIVIL ACTION FILE NO. 1:98-CV-1956-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, on May 3, 2006 the Georgia Environmental Protection Division ("EPD") and the United States Environmental Protection Agency ("EPA") made a written demand on the City of Atlanta ("City") for stipulated penalties concerning violations of the First Amended Consent Decree (1:98-CV-1956-TWT); and

WHEREAS, the Department of Watershed Management ("Department") continues to make substantial progress within the separated and combined sewer systems in which the Department expects to continue seeing declines in future fines and spills; and

WHEREAS, under the First Amended Consent Decree the City is subject to stipulated penalties for sanitary sewer overflows ("SSO") to waters and dry land (all quarters for 2005); and

WHEREAS, the total amount assessed and demanded by EPA and EPD for these violations is One Hundred Sixty Eight Thousand Five Hundred Dollars and No Cents (\$168,500.00) as set out in Exhibit "A"; and

WHEREAS, the Department does not dispute the fact that these violations did occur; and

WHEREAS, the payment to the EPD and EPA of this assessment by the City does not constitute a finding of adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violation of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, the payment will be charged to and paid from Fund, Account and Center Number 2J01(Water & Wastewater Revenue) 529017 (Property/Liquidation) Q30001 (Deputy Commissioner, Treatment & Collection); and

WHEREAS, it is deemed to be in the best interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Chief Financial Officer is authorized to issue payments in amounts not to exceed Eighty Four Thousand Two Hundred Fifty Dollars and No Cents

(\$84,250.00) payable to the **State of Georgia** and Eighty Four Thousand Two Hundred Fifty Dollars and No Cents (\$84,250.00) payable to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the First Amended Consent Decree at the discretion of the Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to pay interest due, if any, on the said stipulated penalties in accordance with the First Amended Consent Decree.

BE IT FINALLY RESOLVED, that the said payments will be charged to and paid from Fund, Account and Center Number 2J01(Water & Wastewater Revenue) 529017 (Property/Liquidation) Q30001 (Deputy Commissioner, Treatment & Collection).

Exhibit A

Summary of Penalty Demand

First Amended Consent Decree Violations	Amount
3rd Quarter/Yr. 2005	Subtotal: \$91,000
90 unpermitted discharges to State waters	
43 sewage overflows to dry land	
4th Quarter/Yr. 2005	Subtotal: \$77,500
84 unpermitted discharges to State waters	
34 sewage overflows to dry land	
TOTAL DEMAND	\$168,500



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

May 3, 2006

CERTIFIED MAIL 7005 2570 0001 8631 7727
RETURN RECEIPT REQUESTED

Mr. Robert J. Hunter, Commissioner
Department of Watershed Management
City of Atlanta
55 Trinity Avenue, S.W.
Atlanta, Georgia 30303

SUBJ: Demand for Stipulated Penalties
Civil Action File No. 1:98-CV-1956-TWT

Dear Mr. Hunter:

The United States Environmental Protection Agency (EPA) and the Georgia Environmental Protection Division (EPD) hereby make a written demand to the City of Atlanta (the City) for stipulated penalties concerning violations of the First Amended Consent Decree (1:98-CV-1956-TWT) as follows:

July 1, 2005 to September 30, 2005

During this period, the City experienced 133 discharges from its facilities for which stipulated penalties are being assessed under Sections XI.H and XI.I of the First Amended Consent Decree in the amount of \$91,000. These discharges include 90 unpermitted discharges to waters and 43 sewage overflows to dry land, and have a total estimated volume of 360,480 gallons or more.

There are 64 discharges totaling 13,230,206 gallons which are being excluded from the above assessment because they are associated with the severe tropical storms experienced in Georgia during early July 2005.

October 1, 2005 to December 31, 2005

During this period, the City experienced 118 discharges from its facilities for which stipulated penalties are being assessed under Sections XI.H and XI.I of the First Amended Consent Decree in the amount of \$77,500. These discharges include 84 unpermitted discharges to waters and 34 sewage overflows to dry land, and have a total estimated volume of 276,304 gallons or more.

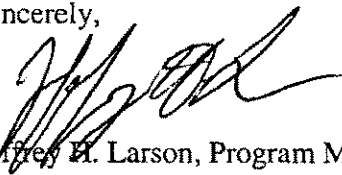
DEPARTMENT OF WATERSHED
MANAGEMENT
2006 MAY -5 PM 1:07
OFFICE OF COMMISSIONER

Two discharges to waters are being excluded from the above assessment because EPD is addressing them separately through State Orders. These discharges are:

- November 28, 2005 – 2566 Ridgewood Road – 172,950 gallons
- December 19, 2005 – 1725 Northwest Drive – 555,556 gallons

The total stipulated penalty assessed with this demand is therefore **\$168,500**. Payment should be made within sixty (60) days of the date of this demand in accordance with Section XI.K of the First Amended Consent Decree. If you have any questions, please contact Doug Mundrick at (404) 562-9328 or Jeff Larson at (404) 362-2680.

Sincerely,



Jeffrey H. Larson, Program Manager
Permitting, Compliance, and Enforcement Program
Georgia Environmental Protection Division



Douglas F. Mundrick, P.E., Chief
Water Programs Enforcement Branch
Water Management Division

cc: See Attached List

List of Carbon Copies:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

United States Attorney
Northern District of Georgia

Department of Law
State of Georgia

Georgia Environmental Protection Division
Permitting, Compliance and Enforcement Program

Lynnette Young
Chief Operating Officer
City of Atlanta

Sally Mills
Chief Environmental Officer
City of Atlanta

Linda K. DiSantis
City Attorney
City of Atlanta

Joseph Basista, P.E.
Deputy Commissioner
Department of Watershed Management
City of Atlanta